

Supreme Court, U.S.

FILED

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JOSEPH F. SPANIO, JR.

CLERK

IN THE
Supreme Court of the United States

October Term, 1987

LAMBERT GRAVEL COMPANY, INC.

Petitioner,

v.

J. A. JONES CONSTRUCTION COMPANY, ET AL

Respondents.

**ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

BRIEF OF RESPONDENTS IN OPPOSITION

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DEUTSCH, KERRIGAN & STILES
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Attorneys for Respondents
J. A. Jones Construction Company
Aetna Casualty and Surety Company
Travelers Indemnity Company
Standard Fire Insurance Company
Lumberman's Mutual Casualty Company
Employer's Reinsurance Corporation
North American Reinsurance Corporation

QUESTION PRESENTED

Whether the district court and the court of appeals were correct in their contract interpretation that petitioner's right to mine sand arose solely from its lease with the riparian owner of the sand and not from its contract with respondents?¹

1. Petitioner Lambert has presented a question in its brief, page i, which ignores the findings and judgment of the lower courts that Lambert's only claim of right to use the disputed sand arose from its lease with the riparian owner. The "question presented" as formulated in Lambert's petition only arises if this Court were first to consider and reverse the two lower courts' findings in that regard. Respondents therefore take issue with petitioner's question and present the question which accurately summarizes the petitioner's argument.

PARTIES TO THE PROCEEDINGS

All parties to the proceeding were correctly shown in petitioner's brief. Those additional parties which must be listed pursuant to Rule 28.1 are found in Appendix D, at page D1.

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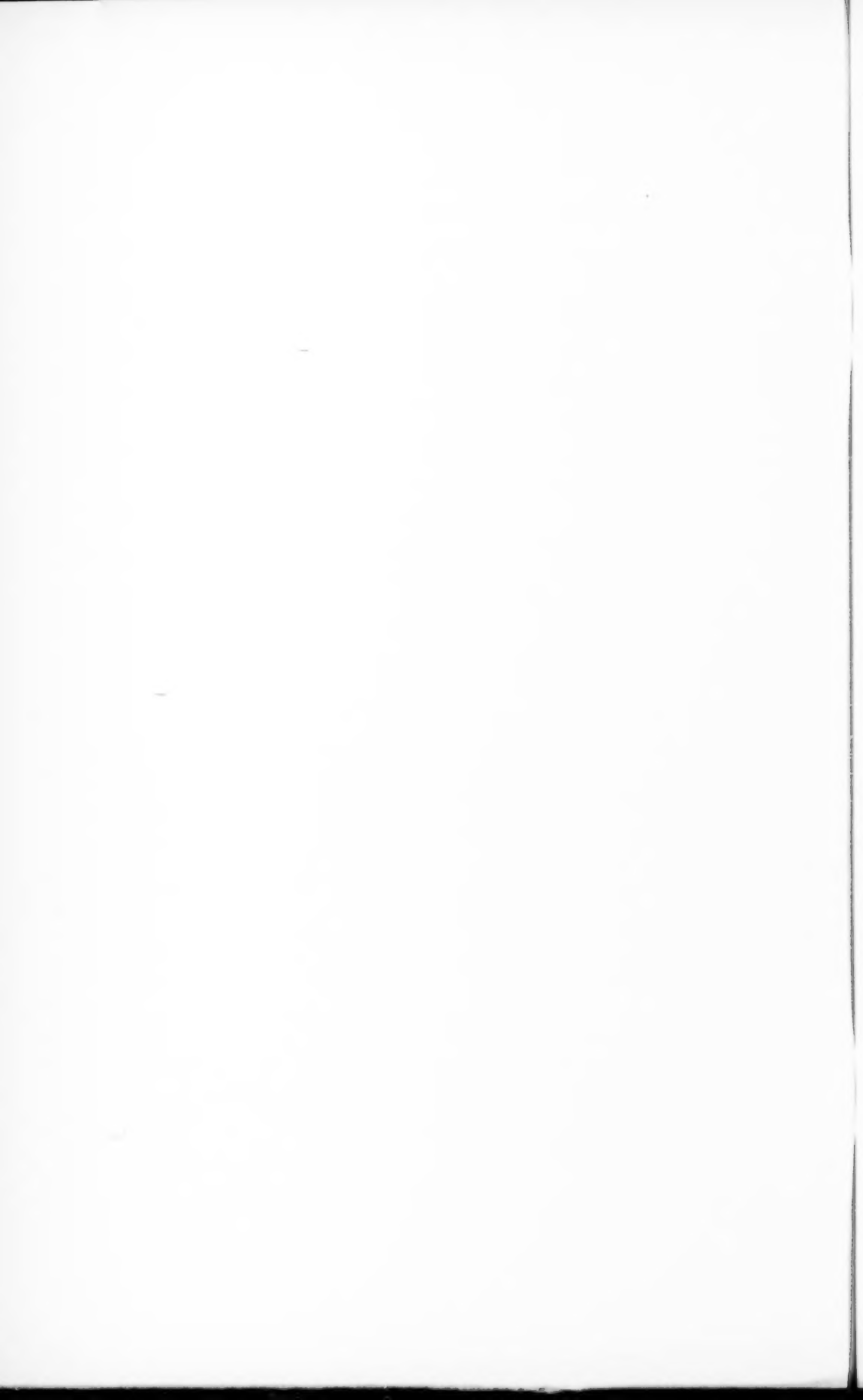
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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Lambert Gravel Company's Miller Act status pursuant to 40 U.S.C. §270(a), et. seq., arises from its purchase order with J. A. Jones Construction Company, the prime contractor to the United States Army Corps of Engineers for a navigational improvement project.

The federal navigational servitude emanates from art. I, §8, cl. 3 of the United States Constitution and is also codified at 32 C.F.R. §644.2(d) and §644.3(a) (1985) within the section entitled "Real Estate Handbook for the Department of the Army."²

2. Respondents do not assert that either codification is germane to the issue sought to be considered on writ of certiorari; these are cited because they were involved in the case before the lower courts and are mentioned in petitioner's brief. 32 C.F.R. §644.2(d) and §644.3(a) are reproduced in the Appendix to this brief.



No. 87-1846

**IN THE
SUPREME COURT OF THE UNITED STATES**

October Term, 1987

LAMBERT GRAVEL COMPANY, INC.
Petitioner,
v.

J. A. JONES CONSTRUCTION COMPANY, ET AL
Respondents.

**ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT
BRIEF OF RESPONDENTS IN OPPOSITION**

STATEMENT OF THE CASE³

On November 11, 1979, petitioner, Lambert Gravel Company ("Lambert"), submitted a bid to J. A. Jones Construction Company ("Jones") to supply select sand backfill to Jones for a United States Army Corps of Engineers ("Corps") navigation project. Jones, using, inter alia, Lambert's bid price, was the low bidder, and contracted with the Corps on December 28, 1979 (the "prime contract").

3. Petitioner's version of the statement of the case neither portrays nor conveys a complete picture; therefore respondents deem it necessary to amplify briefly the petitioner's statement of the case.

The purchase order between Jones and Lambert was signed July 3, 1980.

Thereafter, on August 20, 1980, Lambert leased a sandbar ("disputed sandbar") from Louisiana Delta Plantation ("Delta"), thereby acquiring the exclusive right to mine sand from the disputed sandbar. Nothing in the Lambert/Jones purchase order mentioned the disputed bar, nor conditioned Lambert's performance or price on Lambert's right to use the bar.

In May, 1981, the Corps ordered Jones to remove Lambert's operations from the disputed sandbar on the grounds that the prime contract clearly required, and Lambert was aware, that the disputed sand bar was to be the source of dredge fill for a different part of the project.

When Jones enforced the Corps' order that Lambert cease removing sand from the sandbar,⁴ Lambert asserted its right to the sand based solely on its lease with Delta.⁵ Lambert did not claim then, nor at any time prior to completion of its supply contract, that its right to the disputed sandbar arose under the prime contract documents.

4. There was no "forceful" removal of Lambert as suggested in Petitioner's Brief, p.9. The record below shows, and both courts below found, that Jones simply told Lambert it would not be able to pay for sand from the disputed bar. Lambert chose to abandon the bar rather than seek redress at that point.

5. Lambert's assertions were in letters to Jones and the Corps, Exhibits G and H to Jones' Memorandum in Support of Motion for Summary Judgment in the United States District Court, reproduced in the Appendix to this brief at B1-4.

In response to Lambert's assertion, Jones requested that Lambert make an administrative claim based on the Corps' decision and offered its assistance.⁶ Lambert did not respond.

Lambert chose to vacate the bar rather than seek administrative relief or termination of its contract with Jones when Jones refused to pay for the sand from the disputed bar.

At no time prior to this suit did Lambert allege that it had a right under the prime contract to mine sand from the disputed bar.

ARGUMENT

There is no important question of federal or constitutional law at issue here; rather Lambert asks this Court to review the interpretation by the lower courts of the Corps' contract documents.

Lambert's application suggests that there is an important federal question, or decision based upon a federal question, to be decided by this Court;⁷ but what Lambert really

6. Exhibit K to Jones' Memorandum in Support of Motion for Summary Judgment in the United States District Court, App., at B7-8.

7. Lambert asserts the writ should be granted because "the lower courts decisions impermissibly expand the United States power under the federal navigational servitude, far beyond its traditional dominance over riparian property interests, now to impair essential contract rights given by the United States' own contract" (Petitioner's Brief, pp. 8-9).

seeks is this Court's review of the lower courts' purported errors in contract interpretation.⁸

Lambert did not argue below that the prime contract documents, which were incorporated into Lambert's purchase order,⁹ gave Lambert a clear right to the disputed sand; but Lambert did urge that the prime contract could not *prohibit* Lambert from using sand from the disputed bar.¹⁰ Nonetheless, the contract provision Lambert now claims gave it right to the disputed sand,¹¹ and its effect on

8. Lambert's brief tacitly acknowledges as much: "The question for review by this Court is singular: should the trier find as fact [in a trial after reversal] that the Lambert-Jones supply contract gives Lambert the right to dredge sand from the disputed bar, then this Court must decide whether to expand the federal navigational servitude . . ." (Petitioner's Brief, p. 10); "The Court of Appeals erred in holding that the contract was silent [as to available sources of sand] . . ." (Petitioner's Brief, pp. 16-17).

9. The Lambert-Jones purchase order incorporated, by reference, all applicable provisions of the plans, specifications, general provisions, special provisions and addenda 1 through 10 of Jones' prime contract with the Corps of Engineers.

10. Excerpt from Lambert's Supplemental Memorandum [in Support of Cross Motion for Summary Judgment] in the United States District Court, App., at C1; excerpt from Original Brief of Lambert in the Court of Appeals for the Fifth Circuit, p. 25, App., at C3-4; excerpt from Lambert's Original Complaint in the United States District Court, paragraph 11, App., at C5-6. The prime contract clearly designated the disputed sandbar for another part of the project. Lambert originally argued only that a right-of-way designation on the drawings did not amount to an exclusive reservation of this same disputed sandbar by the Corps. Both courts noted this argument to be immaterial since those courts found Lambert's only right to the sand was through its lease, not through its contract. Lambert also seeks review of that conclusion by the Court. (Petitioner's Brief, pp. 22-24).

11. Paragraph 5.4, Division 2, Section 2D of the prime contract.

the Jones-Lambert relationship were considered by the courts below.¹² That paragraph cannot, in the broadest interpretation, be construed as a representation by the Corps that Lambert could use the disputed sandbar.¹³ Indeed, the fact that Lambert leased the bar from the riparian owner indicates that Lambert had no idea of relying on a government furnished borrow pit.¹⁴ And it did not occur to either court below that the Corps gave to Jones, and through Jones to Lambert, the right to any sand bar or the river; neither lower court read the provisions of ¶ 5.4 as conferring upon Lambert a contractual right to the disputed sand.

The court of appeals read the language of the prime contract and of the Lambert purchase order as silent on

12. Exhibit B to Jones' Memorandum in Support of Motion for Summary Judgment in the United States District Court, App. at B9. It was, in fact, cited in the decision of the court of appeals (Petitioner's Brief, App., p. 26a).

13. "5.4 *Select Sand Material*. Select sand materials for use in the backfill for the lock and dam shall classify as SW or SP by the Unified Soil Classification System and shall be clean, free draining, and containing no more than 5 percent material by weight passing the No. 100 sieve. Sand from the existing streambed may not meet these requirements without processing and may have to be obtained from offsite sources both at the contractor's expense"

14. Both courts interpreted the facts as showing that Lambert had leased the sandbar from Delta in order to fulfill its contractual obligations:

"Lambert contracted with Louisiana Delta Plantation (Delta) to acquire select sand in order to fulfill its contract with Jones" (Petitioner's Brief, App., p. 2a); "To fulfill its obligation to provide fill materials, Lambert entered into a surface lease agreement with Louisiana Delta Plantation ('Delta') . . ." (Petitioner's Brief, App., p. 26a).

where Lambert would obtain sand to fulfill its contractual obligations.¹⁵ Indeed, Lambert urged no such interpretation as it urges here until after the court of appeals convincingly demolished Lambert's assertion that the United States had relinquished to Delta the navigational servitude over the disputed sandbar, thereby destroying Lambert's assertion of a right to the sand through its lease.

The review sought by Lambert here is inappropriate.¹⁶ Lambert asks this Court to review the lower courts' interpretation of Jones' prime contract, and to hold or interpret whether it gave Lambert the unqualified right to the sand in the disputed bar. The courts below held that Lambert's right to that sand bar depended entirely on Lambert's lease with Delta, *i.e.*, that Lambert had no other right to the bar. And they held that Lambert's lease with Delta was subservient to the federal navigational servitude. There is no factual basis in the record for the legal question on which Lambert seeks review.¹⁷ The decisions below involve no expansion of the navigational servitude because the prime contract gave Lambert no rights to the disputed bar which could be impaired.

Lambert raises questions which depend entirely on the facts different than those found by both courts below; certiorari, therefore, should be denied.

15. Petitioner's Brief, pp. 9-10.

16. "This is not the place to review a conflict of evidence nor to reverse a Court of Appeals because were we in its place we would find the record tilting one way rather than the other, though fair-minded judges could find it tilting either way. . . . In such situations we should 'adhere to the usual rule of noninterference where conclusions of Circuit Courts of Appeals depend on appreciation of circumstances which admit of different interpretations.' " *National Labor Relations Board v. Pittsburgh Steamship Co.*, 340 U.S. 498, 503 (1951).

17. Petitioner's Brief, p. 10.

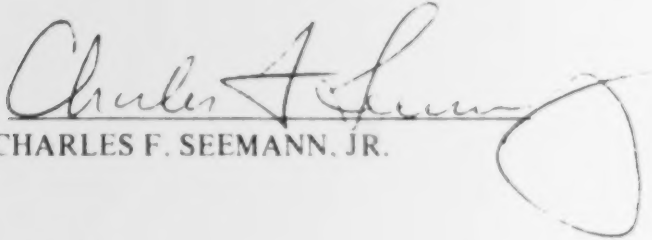
CONCLUSION

Respondents submit that the United States District Court for the Western District of Louisiana and the United States Court of Appeals for the Fifth Circuit were correct in their interpretation of the contract provisions which Lambert seeks this Court to review. There is no important question of federal law or a decision of a federal question to be settled by this Court.

RESPECTFULLY SUBMITTED this 9th day of June, 1988.

J. A. JONES CONSTRUCTION COMPANY

BY:

A handwritten signature in cursive script, appearing to read "Charles F. Seemann, Jr.", written over a horizontal line.

CHARLES F. SEEMANN, JR.

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**APPENDIX TO BRIEF OF RESPONDENTS
-IN OPPOSITION TO PETITION FOR
WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF
APPEALS FOR THE FIFTH CIRCUIT**



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A1

APPENDIX A

STATUTES

32 C.F.R. §644.3

- (a) *Land to be acquired in Fee.* All lands necessary for permanent structures, construction areas, public access areas and fish and wildlife purposes will be acquired in fee. No interests need to be acquired in areas subject to the Government's right of navigational servitude
.....

32 C.F.R. §644.2

- (d) *The Navigational Servitude.* As a general rule the United States does not acquire interests in real estate which it already possesses or over which jurisdiction is or can be legally exercised. Irrespective of the ownership of the banks and bed of a stream below ordinary high water mark, and irrespective of western water rights under the prior appropriation doctrine, no further Federal interest is required for navigational projects in navigable streams below the ordinary high water limit. It is required, therefore, that the acquisition plan consider the extent of the navigational servitude.



B1

APPENDIX B

**Excerpts from Jones' Memorandum in Support of Motion for
Summary Judgment in the United States District Court**

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

**CIVIL ACTION
NO. 84 - 1951
SECTION A**

LAMBERT GRAVEL COMPANY, INC.

VERSUS

J. A. JONES CONSTRUCTION COMPANY, ET AL.

**U. S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

FILED

SEP 24 1985

ROBERT H. SHEMWELL, CLERK

BY s/s S/C D

DEPUTY

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**MEMORANDUM IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT ON BEHALF
OF J. A. JONES CONSTRUCTION COMPANY,
AETNA CASUALTY & SURETY COMPANY, THE
TRAVELERS INDEMNITY COMPANY, STANDARD
FIRE INSURANCE COMPANY, LUMBERMAN'S
MUTUAL CASUALTY COMPANY, EMPLOYERS
REINSURANCE CORPORATION, AND NORTH
AMERICAN REINSURANCE CORPORATION**

B2

Jones' Memorandum in Support of Motion for Summary
Judgment in the United States District Court, Exhibit G

RECEIVED MAY 19 1981

(stamp)

DEFENSE
EXHIBIT

G

(stamp)

PAUL A. LAMBERT, Pres.

Phone: Day 504-635-3251

Baton Rouge Phone: 504-343-1449

Telefax: Nite 504-635-3474

Day or Nite

Lambert GRAVEL Company Inc.

QUALITY

◆ SAND and GRAVEL ◆

Drawer G

St. Francisville, Louisiana 70775

May 14, 1981

J. A. Jones Construction Company
Post Office Box 82A, Star Route
Vick, Louisiana 71372

Gentlemen:

This letter will acknowledge receipt of your order directing us to stop removing sand from our present site. You have directed us to cease removing the sand from the Louisiana Delta Plantation site and to seek suitable material from other sources.

The purpose of this letter is to acknowledge receipt of your direction and your order; to protest the issuance and delivery of the same and to place you on notice that your action in this regard constitutes a breach of contract for which Lambert Gravel Company, Inc. shall hold you responsible for all costs, expenses and damages occasioned thereby. It is our intention to reserve all rights and causes of action while proceeding to comply with your direction and order. All costs, expenses and delays involved in finding a new source of material to supply the purchase order of J. A. Jones Construction Company, dated May 12, 1980 and being No. 42-446-584, as well as other damages, costs and expenses resulting from your direction and orders shall be assessed to you.

We obtained the right to the sand removed and delivered to you and to all other needed sand to supply your purchase order. Our operations to remove the sand have been conducted in your presence and with your apparent approval and consent for many months. As a matter of fact, you have removed sand from the same location during the same time that we have been engaged in removing the same material. Our right to the sands are exclusive and the materials removed by you as well as all the costs, expenses and damages occasioned by your action will be the subject matter of our subsequent assessment to you. We protest your direction and order as illegal, improper and without cause of reason.

We will be pleased to discuss this matter with you if you so desire.

Yours truly,

Lambert Gravel Company, Inc.

s/s Paul A. Lambert, Pres.

B4

Jones' Memorandum in Support of Motion for Summary
Judgment in the United States District Court, Exhibit H

DEFENSE
EXHIBIT
H
(stamp)

PAUL A. LAMBERT, Pres.

Phone: Day 504-635-3251

Baton Rouge Phone: 504-343-1449

Phone: Nite 504-635-3474

Day or Nite

Lambert GRAVEL Company Inc.

QUALITY

◆ SAND and GRAVEL ◆

Drawer G

St. Francisville, Louisiana 70775

May 14, 1981

Department Of The Army
New Orleans District, Corps of Engineers
Red River Waterway
Lock & Dam No. 1 Resident Office
Post Office Box 329
Marksville, Louisiana 71351

Attention: Mr. Adolfo Ramirez, Jr.
Authorized Representative of
the Contracting Officer

Gentlemen:

The purpose of this letter is to acknowledge receipt of a
copy of your letter of May 12, 1981 directed to J. A. Jones

Construction Company. Your letter indicates that Lambert Gravel Company, Inc. and the aforesaid J. A. Jones Construction Company have been using a borrow area contrary to what is contained in the contract between the Department of the Army and J. A. Jones Construction Company. Your letter of May 12, 1981 orders J. A. Jones Construction Company and Lambert Gravel Company, Inc. to cease operations immediately in the area described in your letter.

Lambert Gravel Company, Inc. herewith protests your cease operations order. The purpose of this letter is to place you on notice of our protest and to advise you of our intention to pursue any and all parties causing additional cost and expense, delays and damages to Lambert Gravel Company, Inc.

You are correct in that you state that Lambert Gravel Company, Inc. has obtained the right to the material from Louisiana Delta Plantation. Our rights are exclusive. The quantities are sufficient to supply the entire delivery of materials to which Lambert Gravel Company, Inc. is obligated to J. A. Jones Construction Company purchase order No. 42-446-584.

In as much as your order has directed us to cease using the material and in as much as J. A. Jones Construction Company has ordered us to stop removing the sands and seek suitable material from other sources, we will comply therewith because we have no other choice, however we advise you as we have advised J. A. Jones Construction Company, that we reserve all of our rights of action and causes of action against the parties responsible for the illegal, improper and unreasonable orders to cease and stop removing sands.

B6

We will be pleased to discuss this matter with you if you so desire.

Yours truly,

LAMBERT GRAVEL COMPANY, INC.

s/s Paul A. Lambert, Pres.

CC: Area Engineer, Shreveport Area Office
Chief of Construction, New Orleans District
J. A. Jones Construction Company

B7

Jones' Memorandum in Support of Motion for Summary
Judgment in the United States District Court, Exhibit K

DEFENSE
EXHIBIT
K
(stamp)

May 29, 1981

Lambert Gravel Company, Inc.
Drawer G
St. Franceville, LA 70775

Attention: Mr. Paul A. Lambert
President

Gentlemen:

Re: Red River Lock and Dam No. 1

We disagree with the statements contained in your letter of May 14, 1981, relating to your contention that the position taken by the Corps of Engineers in their letter of May 12, 1981, is a breach of our existing contract with you. As you are aware, your contract with us explicitly requires you to be bound by and to comply with all of the terms and provisions of our contract with the Corps of Engineers, including the drawings referred to in the Corps' May 12, 1981 letter.

B8

If it is your contention that the Corps' directive contained in the May 12, 1981, letter is incorrect or unjustified, then we will make available to you all of the contract rights that exist in our contract with the Corps to dispute this directive and to file a claim for additional compensation. Please advise us if you desire us to make such a claim in your behalf and we will proceed to cooperate with you in this procedure.

Very truly yours,

J. A. JONES CONSTRUCTION
COMPANY

B. F. Macon
Vice President
Manager, Heavy Division

BFM: db

cc: Mr. C. M. Burdette
Job Office

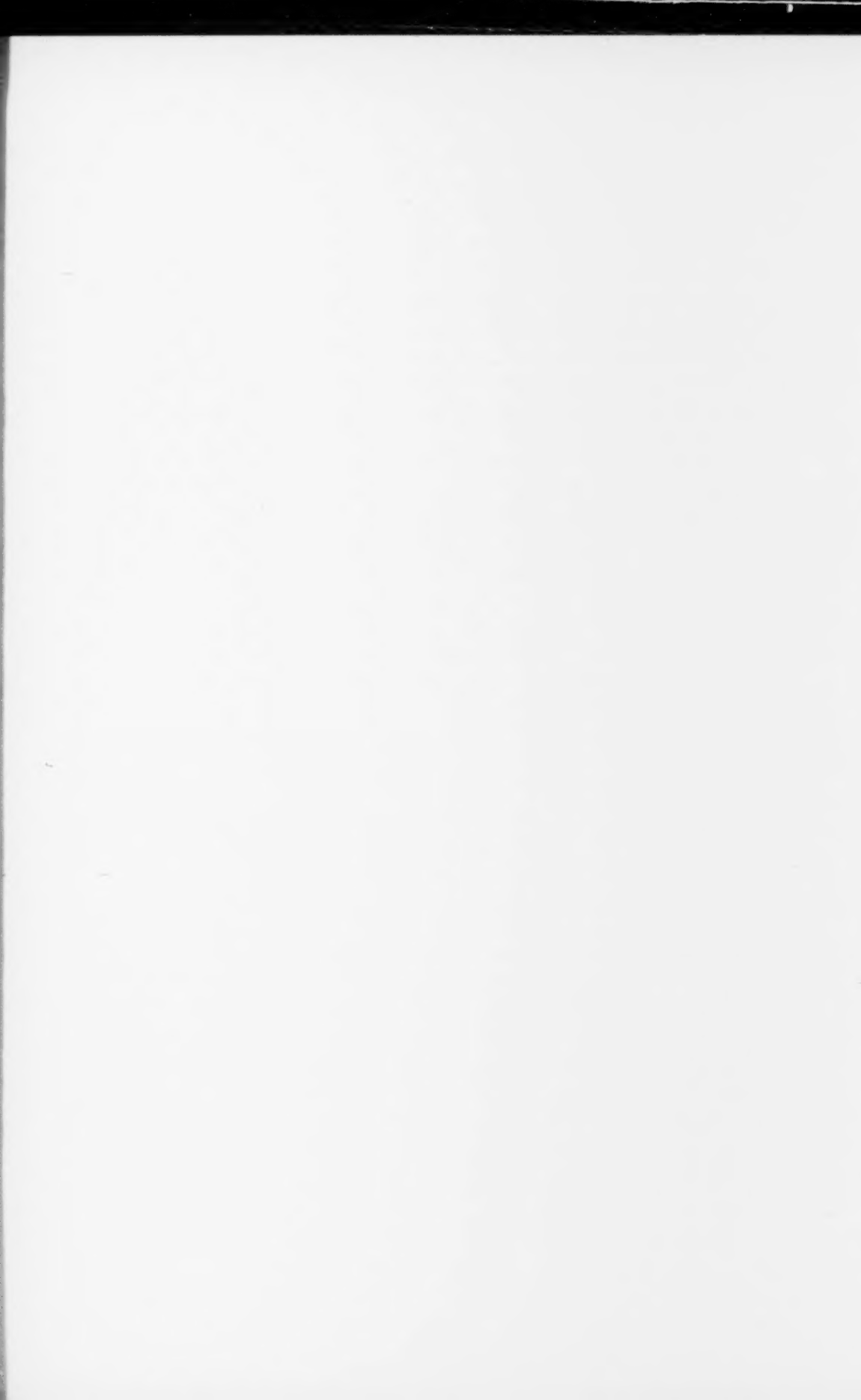
Jones' Memorandum in Support of Motion for Summary Judgment in the United States District Court, Exhibit B excerpt, paragraph 5.4

.

5.4 *Select Sand Material.* Select sand material for use in the backfill for the lock and dam shall classify as SW or SP by the Unified Soil Classification System and shall be clean, free draining, and containing not more than 5 percent material by weight passing the No. 100 sieve. Sand from the existing streambed may not meet these requirements without processing and may have to be obtained from off-site sources both at the contractor's expense. Select sand material shall be placed in the end piers of the floating guidewall end piers and shall be uncompacted.

AMEND 003

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C1 -

APPENDIX C

Excerpts of Pleadings of Lambert

Supplemental Memorandum [in Support of Cross Motion for Summary Judgment] in the United States District Court of Lambert Gravel Company, Inc., excerpt, p. 11

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

CIVIL ACTION: 84 - 1951 "A"

LAMBERT GRAVEL COMPANY, INC.

VERSUS

J. A. JONES CONSTRUCTION
COMPANY, ET AL

SUPPLEMENTAL MEMORANDUM
[in support of Cross Motion for Summary Judgment]
OF
LAMBERT GRAVEL COMPANY, INC.

.

The claim for increased costs and equitable adjustment of the contract are claims under the contract which simply do not permit relief by reference to the navigational servitude. The claim arises because of *Jones' refusal to permit delivery of materials from a site which the Purchase Order permits.*

The clear issue of material fact between Jones and Lambert as to this claim is whether or not the Purchase Order documents forbid or exclude the disputed sand bar as a source of supply for the Purchase Order sand, and whether the contract documents provide reasonable notice to Lambert (emphasis in original).

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C3

Original Brief of Lambert Gravel Company, Inc. in the Court
of Appeals for the Fifth Circuit, excerpt, p. 25

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 87-4008

LAMBERT GRAVEL COMPANY, INC.
Plaintiff-Appellant
VERSUS

J. A. JONES CONSTRUCTION COMPANY, ET AL
Defendants-Respondents

ORIGINAL APPEAL BRIEF ON BEHALF OF
LAMBERT GRAVEL COMPANY, INC.

April 13, 1987

WRAY, ROBINSON & KRACHT
W.P. Wray, Jr.
Erick A. Kracht
Robert M. Brian
5643 Corporate Boulevard
Post Office Box 14085
Baton Rouge, Louisiana 70898
Telephone (504) 928-3040

B. JONES AND THE CORPS OF ENGINEERS DID NOT INTEND TO EXCLUDE LAMBERT FROM THE SAND BAR: A GENUINE ISSUE.

The claim for increased costs and equitable adjustment of the contract are claims under the contract which simply do not permit relief by reference to the navigational servitude. The claim arises because of *Jones' refusal to permit delivery of materials from a site which the Purchase Order permits. The clear issue of material fact between Jones and Lambert as to this claim is whether or not the Purchase Order documents forbid or exclude the disputed sand bar as a source of supply for the Purchase Order sand, and whether the contract documents provide reasonable notice to Lambert* (emphasis in original).

. . . .

C5

Original Complaint of Lambert in the United States District Court, excerpt, paragraph 11.

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

CIVIL ACTION NO. CV84 - 1951

LAMBERT GRAVEL COMPANY, INC.

VERSUS

J. A. JONES CONSTRUCTION COMPANY,
AETNA CASUALTY & SURETY COMPANY,
THE TRAVELERS INDEMNITY COMPANY,
STANFORD FIRE INSURANCE COMPANY,
LUMBERMAN'S MUTUAL CASUALTY COMPANY,
EMPLOYERS REINSURANCE CORPORATION, AND
NORTH AMERICAN REINSURANCE CORPORATION

**U. S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

FILED

JUL 25 1984

ROBERT H. SHEMWELL, CLERK

BY _____

DEPUTY

(stamp)

COMPLAINT

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- 11.

Jones evicted Lambert from the Louisiana Delta Plantation site without legal right or cause. The materials supplied and to be supplied from Louisiana Delta Plantation complied with specifications and there was no prohibition to the use of the same in the purchase order.

.

APPENDIX D

PARTIES TO THE PROCEEDINGS

Respondent J. A. Jones Construction Company

Jones Group, Inc.

Addison Insurance Agency, Inc.

JAJ Holding Corp.:

J. A. Jones Construction Services Company

Jones Operations & Maintenance Co.

J. A. Jones Applied Research Company

J. A. Jones Construction Company:

William L. Crow Construction Company

Mansfield Mining Company

Rea Construction Company, AG

Chas. H. Tompkins, Co. -

Jones Capital Corporation

Jones Black River Services Incorporated

John D. Keys & Associates

Ecker-Empire Electric Company

Metric Constructors, Inc.:

Tiber Construction Company

Norfab, Inc.

Queens Properties, Inc.

Graphics Management, Inc.

Rea Construction Company

Respondent Travelers Indemnity Company

ABC Management Inc.
Adams Service Company, Ltd.
Adria - TIC International Holdings, S.A.
Aggressive Stock Trust
ATALFA (UK)
Auger Insurance Agency, Inc.
Bankers and Shippers Insurance Company of New York
Blue Ash Associates Limited Partnership
C & F Surplus Insurance Brokers, Inc.
C.S.I., Inc.
Capital T Money Fund
Capital T Tax Free Fund
Carpenter Brothers Insurance Agency, Inc.
Cash Income Trust
Center for Corporate Health Promotion, Inc.
Charter Oak Fire Insurance Company (The)
Connecticut Fire Insurance Company (The)
Connelly, Jr., Incorporated (William F.)
Conservco
Consolidated Agencies Northwest, Inc.
Constitution Plaza, Inc.
Constitution State Insurance Company (The)
Constitution State Management Company
Constitution State Service Company
Derby Advertising, Inc.
Dillon, Read Inc.
Dillon, Read Capital Inc.
Dillon, Read & Co. Inc.
Dillon, Read Development Inc.
Dillon, Read Enskilda Partners
Dillon, Read Interfunding Inc.
Dillon, Read International Asset Management
Dillon, Read International Securities Inc.
Dillon, Read Limited

D3

Dillon, Read Mortgage Capital Inc.
Dillon, Read Real Estate Inc.
Dillon Read Securities Inc.
Dillon, Read Services Inc.
Dillon, Read (UK) Limited
Dublin Regional Plaza Joint Venture
89th and York Avenue Corporation
ERMC, Inc.
Execucom Systems Corporation
Exsure Great Lakes, Inc.
Exsure, Inc.
Exsure, Incorporated (Boston)
Exsure Midwest, Inc.
Fiduciary Investment Company, Inc.
Finance et Development Inc.
Fowler Agency, Inc. (The Arthur B.)
Freedom Fund (The)
Fund Administrators, Inc.
Great State Agency Corp.
Harbor Keystone Advisers, Inc.
H. C. Copeland and Associates, Inc.
H. C. Copeland and Associates Equities, Inc.
H. C. Copeland Associates, Inc. of Massachusetts
H. C. Copeland Financial Services, Inc.
Health Plan of Virginia
High Yield Bond Trust
Hilstead Insurance Agency, Inc.
Intangible Marketing, Inc.
KBA 3 Limited Partnership
Keystone Blue Ash Limited Partnership
Keystone Custodian Fund - Series B-1
Keystone Custodian Fund - Series B-2
Keystone Custodian Fund - Series B-4
Keystone Custodian Fund Series K-1
Keystone Custodian Fund Series K-2
Keystone Custodian Fund Series S-1

D4

Keystone Custodian Fund Series S-3
Keystone Custodian Fund Series S-4
Keystone Custodian Funds, Inc.
Keystone Financial Corporation
Keystone International Fund, Inc.
Keystone Investment Management Corporation
Keystone Liquid Trust
Keystone Distributors Inc.
Keystone Group, Inc.
Keystone Investment Management Corporation
Keystone Massachusetts Life Insurance Company
Keystone Precious Metals Holdings, Inc.
Keystone Properties, Inc.
Keystone Provident Financial Services Corp.
Keystone Provident Life Insurance Company
Keystone Realty Advisors, Inc.
Keystone Realty Partners
Keystone Tax Exempt Trust
Keystone Tax Free Fund
KMA Variable Account
KPI 85, Inc.
La Metropole S.A.
London and Hartford Corporation
Managed Assets Trust
Managed Health Care Service, Inc.
Massachusetts Company, Inc. (The)
Master Reserves Tax Free Trust
Master Reserves Trust
Meadow Lane, Inc.
Money Market/Options Investments, Inc.
Monson Company, The
N.S.P.D.R. Inc.
Panther Valley Country Club, Inc.
Panther Valley, Inc.
Panther Valley Service, Inc.
Park Place West Limited Partnership

Pequest Sewer Company
 Pequest Water Company
 Phoenix Insurance Company (The)
 Plaza Corporation (The)
 Prospect Company (The)
 Prospect Management Services Company (Del.)
 Prospect Nebraska Land Holding Company, Inc.
 Randall, E. Broox & Sons, Inc.
 Salem Funds (The)
 Syd Tozier & Associates, Insurance Brokers, Inc.
 Terra Nova Insurance Company Limited
 TDR Mortgage Securities I, Inc.
 TIC Auto Body Co., Inc.
 Travcan Limited
 Travelers Asset Funding Corporation
 Travelers Asset Management International Corporation
 Travelers Canada Corp.
 Travelers Corporation (The)
 Travelers Corporation of Bermuda Limited (The)
 Travelers Corporation (U.K.) Ltd.
 Travelers Diebold Technology Company, Inc.
 Travelers/EBS, Inc.
 Travelers Equities Sales, Inc.
 Travelers Fund B for Variable Contracts (The)
 Travelers Fund B-1 for Variable Contracts (The)
 Travelers General Agency of Hawaii, Inc.
 Travelers Growth Stock Account for Variable Annuities
 (The)
 Travelers Health Network, Inc.
 Travelers Health Network of California, Inc.
 Travelers Health Network of Connecticut, Inc.
 Travelers Health Network of Florida, Inc.
 Travelers Health Network of Illinois, Inc.
 Travelers Health Network of Louisiana, Inc.
 Travelers Health Network of New Jersey, Inc.
 Travelers Health Network of New York, Inc.

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Travelers Health Network of Pennsylvania, Inc.
Travelers Health Network of South Carolina, Inc.
Travelers Health Network CMP of South Carolina, Inc.
Travelers Health Network of Tennessee, Inc.
Travelers Health Network of Austin, Inc.
Travelers Health Network of Texas, Inc.
Travelers Home Equity Centers, Inc.
Travelers Home Insurance Center, Inc.
Travelers Illinois Syndicate
Travelers Income Properties - I
Travelers Income Properties - II
Travelers Indemnity Company (The)
Travelers Indemnity Company of America (The)
Travelers Indemnity Company of Canada
Travelers Indemnity Company of Illinois (The)
Travelers Indemnity Company of Rhode Island (The)
Travelers Insurance Company (The)
Travelers Insurance Company of Illinois (The)
Travelers Insurance Corporation Proprietary, Limited (The)
Travelers International Finance Company N.V.
Travelers Investment Management Company (The)
Travelers of Ireland Limited
Travelers Keystone Fixed Income Advisers, Inc.
Travelers Life and Annuity Company (The)
Travelers Life Insurance Company (The)
Travelers Life Insurance Company of Canada
Travelers Life Insurance Company of Connecticut
Travelers Life Insurance Company International Ltd. (The)
Travelers Lloyds Insurance Co.
Travelers Marine Corporation (The)
Travelers Money Market Account for Variable Annuities
Travelers Mortgage Capital Corporation
Travelers Mortgage Insurance Agency, Inc. (Delaware
incorporated)
Travelers Mortgage Insurance Agency, Inc. (New Jersey
incorporated)

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Travelers Mortgage Securities Corporation
Travelers Mortgage Services, Inc. (The)
Travelers Plan Administrators, Inc.
Travelers Plan Administrators of Arizona
Travelers Plan Administrators of California
Travelers Plan Administrators of Colorado
Travelers Plan Administrators of Florida
Travelers Plan Administrators of Illinois
Travelers Plan Administrators of Michigan
Travelers Plan Administrators of Minnesota
Travelers Plan Administrators of Ohio
Travelers Plan Administrators of Pennsylvania
Travelers Plan Administrators of Tennessee
Travelers Plan Administrators of Texas
Travelers Plan Administrators of Washington
Travelers Quality Bond Account for Variable Annuities
(The)
Travelers Real Estate Investment Trust
Travelers Real Estate Investment Trust 2
Travelers Realty/100 L.P.
Travelers Realty Income Investors
Travelers Realty Network, Inc.
Travelers Reinsurance Company of Bermuda Limited
Travelers Syndicate #1, Inc. (The)
Travelers Timed Aggressive Stock Account for Variable
Annuities
Travelers Timed Bond Account for Variable Annuities
Travelers Timed Growth Stock Account for Variable
Annuities
Travelers Timed Money Market Account for Variable
Annuities
Travtech, Inc.
University Research Associates, Inc.
Wine Fund Managers (Guernsey) Ltd.
Wynne Agency (Joseph A.)

Respondent The Standard Fire Insurance Company

Aetna Casualty & Surety Company
Aetna Casualty & Surety Company of Illinois
Aetna Casualty & Surety Company of America
South Bend Joint Venture
Aegen International, Inc.
The Automobile Insurance Company of Hartford,
Connecticut
Farmington Casualty Company
AE Development Group, Inc.
AECC Inc.
Aetna Excess and Surplus Lines Company
Mariner Brookhollow Joint Venture
ADB I
Ponderosa Homes
ABP Associates Limited
Aetna/Area Corporation
Aetna Lloyds of Texas Insurance Company
Hyatt Plaza
Parklake Associates
Northlake Centre Associates
Aetna, Peterson, Jacobs and Ramo Technology Ventures
TAAS Associates
Portside Properties Ltd.
211 East Ontario Associates
Executive Re, Inc.
Executive Risk Management Associates
AE Investments, Inc.
AE Properties, Inc.
American Re-Insurance Company

Respondent Lumberman's Mutual Casualty Company

Kemper Corporation
American Manufacturers Mutual Insurance Company
Fidelity Life Association
Kemper Lloyds Insurance Company

Respondent The Aetna Casualty and Surety Company

Aetna Life and Casualty Company
Aetna Life and Casualty Limited
Aetna Life Insurance Company
Aetna Life & Casualty of Canada Ltd.
Aetna Life Insurance and Annuity Company
Federated Investors, Inc.
Morton Smith, Inc.
AM RE/Aetna (U.K.) Holdings Company
Aetna International, Inc.
Urban Diversified Properties, Inc.
Aetna Healthcare Systems, Inc.
Aetna Life Insurance Company of Illinois
AE Four, Incorporated
AE Five, Incorporated
Aetna Life & Casualty (Bermuda) Ltd.
Luettgens Limited
AE Housing Corp.
AE Nine, Incorporated
Community Rehabilitation Investment Corporation
Structured Benefits, Inc.
AE Ten, Incorporated
Farmington Holdings, Inc.
AFF, Inc.
AE Fourteen, Incorporated
AE Fifteen, Incorporated
Aetna Life & Casualty International Finance N.V.
Aetna Realty Investors, Inc.
Aetna Life Insurance Company of America
Span Data Processing Center, Inc.
Aetna Financial Services, Inc.
Aetna Life & Casualty Foundation, Inc.
Stembler-Adams & Sweet, Inc.
Tebco Inc.
Aetna Technical Services, Inc.

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Abcor Insurance Administration
5th Generation, Inc.
Aetna Capital Management, Inc.
Hartford Sports Cable Company
Aetna Realty Investments I, Inc.
Aetna Real Estate Properties, Inc.
Aegen International, Inc.
Mariner Brookhollow Joint Venture
ADBI
Ponderosa Homes
ABP Associates Limited
Hyatt Plaza
Parklake Associates
Northlake Centre Associates
Aetna, Peterson, Jacobs and Ramo Technology Ventures
TAAS Associates
Portside Properties Ltd.
211 East Ontario Associates
Executive Re, Inc.
Executive Risk Management Associates

Respondent Employer's Reinsurance Corporation

General Electric Company
General Electric Financial Services, Inc.
General Electric Capital Corporation
Kidder, Peabody Group, Inc.
Employers Reassurance Corporation
Employers Reinsurance Corporation
Employers Reinsurance Limited
First Excess and Reinsurance Corporation
Monogram Reinsurance Corporation
Nordisk Reassurance Selskab A/S
Puritan Excess and Surplus Lines Insurance Company
Puritan Insurance Company

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Puritan Title Insurance Company

Nac Re Corp.

The Victory Reinsurance Company of America, Inc.

John Alden Financial Corporation

Citizens Accident and Health Insurance Company

Continental Life & Accident Company

GW Life Insurance Company

Houston National Life Insurance Company

John Alden Annuity Insurance Company

John Alden Life Insurance Company

Western Diversified Casualty Insurance Company

Western Diversified Life Insurance Company

Respondent North American Reinsurance Corporation

Swiss Reinsurance Company

Swiss Holding (North America) Inc.